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ENGLISH

COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE
VERBATIM RECORD OF THE ONE HUNDRED AND TWENTY-EIGHTH MEETING

Held at Headquarters, New York,
on Thursday, 5 July 1973, at 10.30 a.m.

Chairman:

Mr. JANKOWITSCH

(Austria)

- Organization of work
- Report of the Committee to the General Assembly
- Other matters (continued)

This record is issued in final form pursuant to the decision taken by the Committee in September 1970 (see Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 20 (A/8020, para. 10)).

ORGANIZATION OF WORK

The CHAIRMAN: As agreed at previous meetings, after a brief formal meeting we shall adjourn and have an informal meeting on the draft report, two parts of which are now before the Committee. Before we proceed to the informal meeting, however, the Committee will hear a statement by the representative of France and the Secretariat will respond to the question raised at our last formal meeting by the delegations of Sweden and Canada.

REPORT OF THE COMMITTEE TO THE GENERAL ASSEMBLY

OTHER MATTERS (continued)

Mr. CHARVET (France) (interpretation from French): At our last informal meeting I indicated that I had not yet received a reply from my Government on the compromise text relating to the marking of space objects which the French delegation, like other delegations, had addressed to its Government. I did, however, add that my contact with Paris a few hours earlier had led me to feel optimistic. I also said that we were hoping for a shorter than five-year review period, and indicated that acceptance by us of the compromise text seemed conceivable only if a very broad consensus was obtained on it in the Committee.

(Mr. Charvet, France)

I have just received new instructions from my Government. After a thorough consideration of the provisions of the compromise article, the Government has reached the conclusion that the convention, if such an article were to be adopted, would lose the greater part of its value and that the very usefulness of a convention on registration would then be open to question, for it would in no way help non-space States to effect identification for the purpose of establishing liability in case of damage and would represent little progress over the present situation.

Secondly, too many States members of the Committee have indicated reservations for a convention adopted in such circumstances not to look rather as if imposed on a minority by a majority, which would be a fundamental departure from the procedure of consensus which prevails in our work. Since we only just have enough time left for the Committee's report, we believe consideration of the draft convention on registration should be referred as a matter of priority to the next session of the Legal Sub-Committee.

The CHAIRMAN: I shall now call on Mr. Abdel-Ghani to reply to the question raised on Tuesday by the representatives of Sweden and Canada.

Mr. ABDEL-GHANI (Chief, Outer Space Affairs Division): In reply to the question addressed to the Secretariat by the representatives of Sweden and Canada regarding the matter of the maritime satellite project now under study by the Intergovernmental Maritime Consultative Organization (IMCO), following the report of the Scientific and Technical Sub-Committee on its last session the Secretariat drew the attention of IMCO to paragraph 24 of that report (A/AC.105/116) wherein the Scientific and Technical Sub-Committee expressed the desire that IMCO inform this Committee of its activities in this field. IMCO was also aware that some delegations intended to raise this specific issue at the session of the Committee on the Peaceful Uses of Outer Space.

In the light of the recent statement by the representatives of Sweden and Canada, the Secretariat has cabled IMCO requesting that copies of the report of the Panel of Experts on Maritime Satellites, second session, be made available for distribution to the members of the Committee. While it cannot be expected that these copies will arrive in time to be circulated at this session, it is the intention of the Secretariat to distribute the report in question as soon as possible.

Mr. MILLER (Canada): I wish to thank Mr. Abdel-Ghani and his staff for having reacted so quickly, and over a holiday period, to the observations made by the representatives of Sweden and Canada. I think it will be very useful to have this report and I am hopeful that IMCO will in fact provide it as soon as possible so that it may be distributed to members of the Committee even after this session has ended.

On another subject I should like to say that it was with considerable regret and concern that I listened to what was said a moment ago by the representative of France, although I hasten to add that we completely understand and fully appreciate the position his Government has instructed him to take as regards the compromise formula on marking which members of this Committee were good enough to put to their Governments in the course of last weekend.

Certainly, as is usually the case with any compromise, this formulation is not acceptable from the point of view of the original positions of many, indeed probably most, of the representatives in this room. It is, I think, justifiably to be criticized for not covering the position of those who wanted a marking system comprehensive enough to be really useful in the identification of a space object which had caused damage, and therefore to be a key adjunct to the liability Agreement already in force. This was not possible, as you know only too well, Mr. Chairman, and therefore we had to consider a symbolic or demonstrative marking system. Even the attempts to make that a mandatory system did not bear fruit and we had to consider a voluntary system.

But as my delegation said at some length -- and, I am afraid, perhaps rather emotionally -- in the informal group on Tuesday afternoon, we think that once a voluntary system has been contemplated, the object then should be to make it as easy as possible for launching States -- indeed to encourage them -- to mark their space objects with the registration number or international designator, and to provide that information to the Secretary-General for inclusion in the central register.

(Mr. Miller, Canada)

It does not, in the opinion of this delegation, seem worth while, once a permissive marking concept has been accepted, to make the conditions under which one reports to the Secretary-General on the marks that are included mandatory, for this will discourage rather than encourage States to mark. It had been the hope of my delegation in particular that we could encourage launching States to mark and States of register to register those marks, so that when the convention came up for review we could determine whether a pattern was now in practice sufficient to warrant strengthening the marking provision.

On Tuesday we had a real opportunity -- perhaps we have such an opportunity even now -- to acquire a registration convention at this session. Whatever should happen in the remaining days of this session, we feel it will be worth while if we record, as precisely and realistically as possible, the degree of work that was done both on the moon treaty and on the registration convention in meeting the recommendation put to this Committee by the Legal Sub-Committee, a recommendation which my delegation supported. I think we can register some satisfaction with the degree of consensus or fundamental agreement on the text of the registration convention, article by article, both preambular and substantive, including the additional article on the review clause that has been approved by the working group, as evidence of the effort that we indeed made.

(Mr. Miller, Canada)

As members know, my delegation would have wished to see the Committee send the registration convention to the General Assembly, in the hope that the Assembly might still have an opportunity, either prior to or in the course of its consideration of our report, to finalize the registration convention during its session this fall.

We believe that we have discussed the one remaining problem on the registration convention to the point where everybody knows the issue and appreciates each other's position. As some have said, it is only the political will to accept a compromise solution that stands in the way of our agreeing on this convention. That political will could easily be found by the General Assembly, and it would not be necessary, or perhaps even desirable, bearing in mind the other subjects that are standing in the wings, for the Legal Sub-Committee to return to the registration convention at its session in Geneva in June next year. It would be preferable, in the opinion of my delegation, to avoid giving this task to the Legal Sub-Committee. However, if others feel differently, we of course would wish to see it go to the Legal Sub-Committee as a matter of top priority. But we think there is such a degree of consensus on and such a realization of the way in which one could, with political good will, achieve acceptance of a compromise on marking that there would really be little for the Legal Sub-Committee to do. I am suggesting that what remains to be done, while we shall perhaps not be able to do it at this session, might be done by the First Committee of the General Assembly, where it is quite often the practice -- I would remind members -- for the First Committee to suspend some of its meetings in order that members of the Outer Space Committee may meet formally or informally to attempt not only to draft an appropriate resolution on the outer space item, but also to consider other matters -- in this case whether there would be at that time a willingness to accept a marking clause.

That is the type of atmosphere we have and it is the type of atmosphere we need to capture in our report. I suggest that we should give this opportunity to the General Assembly to attempt to finalize the agreement.

Mr. SKALA (Sweden): I should like to express our thanks to the Secretariat for the information it has just given on the item of maritime satellites. My delegation had hoped -- and with reason -- that the IMCO information would be distributed to us at this session. Indeed, it seems that IMCO sent one copy of its report to the Secretariat, but obviously that was not enough for distribution here, and one wonders why it was done in that way. However, if we can now agree that IMCO will be requested to submit that report shortly and that it will be distributed without delay as a document of this Committee, not too much time will have been lost.

With respect to the question of registration, I should like to associate my delegation with what has been eloquently said by the representative of Canada.

Mr. COCCA (Argentina) (interpretation from Spanish): The delegation of Argentina would like to make a statement at this meeting, particularly after noting the firm, extremely firm or even exaggeratedly firm, position expressed in the mini-group, in the informal working group and in other even more informal meetings on the convention on registration and the treaty on the moon.

First, I should like to state that our spirit of understanding for the position of other delegations has often led us to make compromises going beyond our own legal convictions on these matters. For that reason, we should like to thank other delegations, and particularly the two space Powers, for their spirit of understanding, which led the first to incorporate a new article concerning the review clause -- undoubtedly a significant achievement of this session of the Committee. I congratulate you, Mr. Chairman, and Mr. Tuerk, the Chairman of the informal working group and the mini-group.

Apart from this, I should like to state that the Argentine position was not in that sense very much in accordance with the adoption of an article which has as a basis the convention on liability, with the addendum referring to the technical activities and progress made in this field of technology. We would have preferred article VII of the treaty prohibiting the emplacement of nuclear weapons on the sea-bed, and we agree with the delegation of France that the period of five years is rather long.

(Mr. Cocca, Argentina)

But we have always wanted a spirit of understanding and harmony to prevail in our Committee and in our subsidiary bodies, and we therefore accepted the article and would be happy if this position were shared by all delegations when the convention on liabilities is taken up again.

With respect to the convention on the registration of objects launched into space, our position in the working group and in the mini-group may have seemed to be extremely firm, but as we said in the informal working group and the mini-group, our position was even more stringent. We do not believe there are many legal reasons that could cause us to change our opinion that marking should be done at the time of the manufacture of the space vehicle, since all such vehicles are manufactured to be launched into space, and should therefore be marked at that time. Secondly, we also understand that the marking should be communicated to the Secretary-General of the United Nations without any delay, prior to the launching. Thirdly, marking should be not only external but also internal, and should cover at least the component parts of the space objects, in accordance with the definition in article I of the draft convention that we have accepted.

(Mr. Cocca, Argentina)

None the less, as we have stated in informal meetings and in various groups including the mini-group, we are prepared to accept a rather broad compromise on these principles; we have also made known our own position --- namely, the maximum that we could agree to in a spirit of co-operation. We therefore state that if the position of the Republic of Argentina is marked by its firmness this is due to a legal point of view only and not a political one.

Speaking of the political point of view, I should like to congratulate the representative of France, because he has allowed legal logic to prevail over political considerations which might have caused him to change his original position. In short we warmly congratulate the Representative of France for not changing his position, because we think that the draft convention on registration is a highly legal one, and consequently legal concessions are much more difficult to obtain than are political considerations, which are known for their elasticity.

Finally, we agree with the delegation of France and other delegations which have stated that the matter should go back to the Legal Sub-Committee and should be given the greatest priority, because all delegations present are of this view because our Committee was prepared to do this and because of the advanced stage of the work.

The CHAIRMAN: Before calling on the representative of Mexico and any other representatives who might wish to speak, I should just like to say that while I appreciate very much this exchange of views, which shows the good faith of delegations in negotiating on this particularly difficult clause in one of our draft conventions, I think the exchange should not now be continued as there will be other opportunities to do so in due course. As time is rather pressing, I would appeal to members to be as brief as possible so that we may proceed to our examination of the report, for which there is very little time available.

Mr. PALACIOS TREVINO (Mexico) (interpretation from Spanish): In accordance with your wish, Mr. Chairman, I shall be brief.

We feel that we must clearly express the position of the delegation of Mexico regarding the draft convention on registration. In this connexion, I would like to associate myself with the eloquent statement made by the representative of Argentina regarding the position of his Government on the draft convention on registration. The delegation of Mexico, from the beginning -- ever since in the meetings of the Legal Sub-Committee the representatives of France and Canada submitted their draft proposals on the convention on registration -- my Government has continually supported the drafts put forward, in the sense that it is necessary for marking to be compulsory and for notification to be made to the Secretary-General. Therefore I shall not repeat the arguments which we have expressed on other occasions regarding the utility and necessity of compulsory marking and that the information should be complete if it is to be effective.

I would simply confine myself to these comments and add that if, unfortunately there should be no consensus in this group, my delegation would prefer the draft convention on registration to be submitted to the Legal Sub-Committee with the same priority that it has been given up to the present time.

Mr. MAIORSKI (Union of Soviet Socialist Republics) (interpretation from Russian): The Soviet delegation cannot forbear to express its deep disappointment at the turn taken by events in our Committee in recent days. We are thinking here of the results of the work in the informal working groups both on the draft convention concerning the moon and also on the draft convention on registration.

We get the impression that some change is taking place before our eyes in what is understood by the term "compromise". The traditional English conception of "compromise" is meeting half-way between two points in opposite directions. In the view of some delegations it would seem that "compromise" is a meeting at the starting point, when that starting point is the instructions received by the delegation.

We cannot but express our regret at this state of affairs, and we would like fully to associate ourselves with your view, Mr. Chairman, that the Committee should proceed to consideration of the report as soon as possible; because in the light of these events it seems to us that the adoption of this session's report will be no easy matter.

Mr. SARDENBERG (Brazil): I will heed your appeal, Sir, and be as brief as possible.

I merely wish to say that my delegation associates itself with the remarks made by the representatives of Mexico and Argentina concerning the question of the draft convention on registration.

We would like to say that we welcomed the statement made this morning by the representative of France, a statement we value not only for its legal assumptions but also for the fact that the delegation of France is one of the authors of the draft convention before us. We regret that a compromise could not be reached, in the sense that we too think that a compromise should be a half-way station between different positions; but we should not expect in any way that a compromise should incorporate more of one position than another, since it should always be wide enough to accommodate the many shades of the spectrum. Since a compromise could not be reached, the only way open to us is surely to send this matter back to the Legal Sub-Committee for further consideration.

I wish also, since I have the floor, to refer to document A/AC.105/L.72, which was distributed this morning. On page 2 of that document, under the heading "Training Workshops", there is a reference to the possibility of convening an interregional seminar on remote sensing applications, concerning cartography in Brazil or Canada during 1974. This certainly refers to the offer that my delegation made last year, and I wish to advise the Committee that we have received instructions from Brasilia confirming officially that we are in a position to hold that seminar.

Mr. REIS (United States of America): Mr. Chairman, I must apologize to you for asking for the floor, but some of the remarks made this morning require my delegation to speak.

What we have witnessed today is a failure of the international community, a failure of the United Nations, a failure of the Committee on the Peaceful Uses of Outer Space and a failure on the part of the Governments of member States of this Committee. I made very clear -- and, I believe, in the most sympathetic way possible -- at our informal, unrecorded working group meeting on Tuesday, 3 July, in reviewing the history of the convention on the registration of objects launched into outer space, the degree to which the Government of the United States of America had moved and has continued to move to meet the positions of others. But obviously I did not suggest that this history of movement, of appreciation for the opinions of others could, for my Government or for any other Government, lead us to move totally away from our own views of what is right, of what is proper, of what is feasible and of what is practicable. The instructions of my Government are not written in a fantasy land of commandment of that which we should like to have, without some perception of what is realistically attainable. But the position of some Governments whose representatives sit around this table seems to be that a priori one may start out with a list not of desiderata but of absolute requirements and that unless those requirements are met there can be no progress in the international community. Therefore it is a failure of the international community that today we are left, as we have been for the past ten years, with certainly a useful but only a somewhat rudimentary system of international co-operation in the registration of objects launched into outer space, that is, the provisions of part B of General Assembly resolution 1721 (XVI). My delegation very much regrets this failure of the community of nations.

The CHAIRMAN: Before giving the floor to other representatives who may wish to speak, I would again urge, with all the persuasion I can command, that we should not now launch a new debate on a particularly difficult problem which has occupied our attention for quite some time. I would also say that, as your

(The Chairman)

Chairman, I feel deeply on this matter, as indeed all of you do. I have the greatest respect for the feelings of delegations on both positions that have been taken and, feeling this responsibility, I should like to say this: the fact that there cannot be agreement at this moment should not lead us to feel utterly frustrated. I do not think that the area of disagreement which we have encountered is too wide. An impressive amount of good will has been shown in recent days, both by the representatives of those countries that possess the technological capabilities of launching space objects and by the representatives of those countries that do not yet possess such technological means, are deeply concerned over the question of space launchings and space traffic, and are collaborating as best they can in the building of a body of international space law. I think that in that light the positions are perhaps not as far apart as they might now seem to be. I think that in expressing our legitimate and justifiable feelings, we should try also to keep our eyes on the future as much as we can and try to maintain to the greatest extent possible the momentum and the spirit of consensus that have existed during the past 8 or 10 days. We must conserve this spirit, and reflect it to the greatest possible extent in the report we are now about to draft. I think that if we are able to do that, this Committee need not adjourn tomorrow--probably at a late hour of the day--with a feeling of frustration; rather it can adjourn with a feeling of hope. I felt obliged to say that at this stage, in view of the justifiably strong feelings which have been voiced here.

Mr. ZAHRAN (Egypt) (interpretation from French): Mr. Chairman, my delegation fully shares the view which you have expressed so aptly. For its part my delegation would like to reiterate its position regarding marking. My delegation has not accepted a text on optional marking, which would not have any value and which rob the convention on registration of any value. We feel that the marking of space objects should be compulsory, and lack of compulsory marking will have undesired repercussions in countries that have not ratified or adhered to the convention on liability. My delegation, like the delegation of Canada, has not lost hope that at the twenty-eighth session of the General Assembly an acceptable text on the marking of space objects will be produced.

Mr. MAIORSKI (Union of Soviet Socialist Republics) (interpretation from Russian): I should like the Secretariat to inform us if we have information on the financial implications and the possible dates of the session of the Working Group on Direct Broadcast Satellites in Geneva.

The CHAIRMAN: I would ask the representative of the Soviet Union whether he wants this information at this stage or would like it when we come to the relevant portion of the report.

Mr. MAIORSKI (Union of Soviet Socialist Republics) (interpretation from Russian): I think it would be better to have it now.

The CHAIRMAN: I call on the Secretary of the Committee.

Mr. PADANG (Secretary of the Committee): The information received from Geneva is that the Working Group could be accommodated in Geneva for a two-week period any time between January and June, and the total cost would be approximately \$18,000 gross, or approximately \$13,000 net. If the Committee should take a decision to that effect, the Committee, shall submit a detailed statement of financial implications.

The meeting rose at 11.50 a.m.